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differently from other privileges of a witness, which must be asserted to be claimed. The technical rule adopted by the Michigan court, excluding this evidence unless the witness was instructed as to his privilege by the court, seems undesirable.

WITNESSES — PRIVILEGED COMMUNICATIONS — ATTORNEY AND CLIENT — WHERE THEY ARE CO-TRUSTEES. — The plaintiff filed a bill against the trustees named in a will, claiming to be the *cestui que trust* of a secret trust, and praying discovery of certain documents. The defendants refused to produce them on the ground that they were confidential communications between one of the trustees as solicitor and his co-trustees as clients. The documents related to trust matters but were not made in contemplation of the present action. *Held*, that they were privileged. *In re Whitworth*, [1919] 1 Ch. 320.

A trustee cannot, as against his *cestui*, claim privilege for communications to an attorney in regard to trust matters, unless they are written in respect to the present litigation. *Devaynes v. Robinson*, 20 Beav. 42; *Talbot v. Marshfield*, 2 Dr. & Sm. 549. This is so because the *cestui* has an equitable right in the documents. A mere claim to be a *cestui*, however, is not sufficient to defeat the privilege. *Wynne v. Humbertson*, 27 Beav. 421. The prime requisite of this privilege in any case is that the communication be incidental to the relation of attorney and client. *Turner's Appeal*, 72 Conn. 305, 44 Atl. 310. *Turner v. Turner*, 123 Ga. 5, 50 S. E. 969. That there was also the relation of co-trustees between the same persons should not preclude the existence of this requisite. In England a solicitor-trustee cannot charge the estate compensation for professional services, unless they were rendered in a judicial proceeding. *Bainbridge v. Blair*, 8 Beav. 588; *Lincoln v. Windsor*, 9 Hare, 158. Hence in the principal case, since compensation was charged, the co-trustees must have consulted the solicitor-trustee as a solicitor, not as a trustee. Thus the general principles governing this privilege were properly applied.

WITNESSES — PRIVILEGED COMMUNICATIONS — CHILD DELINQUENT AND JUVENILE COURT JUDGE. — A twelve-year-old boy confessed in strict confidence his part in the murder of his father to the juvenile court judge of his district. Thereupon delinquency proceedings were instituted against him. At the trial of the boy's mother for the murder he testified in her favor. To impeach this testimony the judge was asked to divulge the boy's confession. Though notified that the boy had consented to his testifying he refused; was ordered by the court to do so; again refused; and was adjudged in contempt of court, and fined. *Held*, that the judgment be affirmed. *Lindsey v. People*, 181 Pac. (Colo.) 531 (1919).

For a discussion of this case, see NOTES, p. 88.

BOOK REVIEWS

THE BARONIAL OPPOSITION TO EDWARD II. A Study in Administrative History.
By James Conway Davies, Emmanuel College, Cambridge. Cambridge:
The University Press. 1918. pp. x, 644.

"What the study of English mediæval history wants, if it is to be kept up as a living thing," declares Professor Tout, "is a more technical and detailed cataloguing and systematising of the dry facts. It is only when the spade-work of history has been done that we may hope to come to any authoritative generalisations." No part of English history has suffered more for the lack of this indispensable "spade-work" than the fourteenth century, and no one has made a more promising beginning of such work than Professor Tout himself in his "Place of Edward II in English History."